

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Formal complaint of Justin Gage against Duke Energy Florida, LLC for alleged violations of Commission rules, orders, and statutes governing electric utility safety standards, compliance certifications, and truthfulness in Commission filings.

DOCKET NO. 20260045-EI
ORDER NO. PSC-2026-0259-PAA-EI
ISSUED: July 24, 2026

The following Commissioners participated in the disposition of this matter:

GABRIELLA PASSIDOMO SMITH, Chairman
GARY F. CLARK
MIKE LA ROSA
BOBBY PAYNE
ANA ORTEGA

NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING PETITIONER'S FORMAL COMPLAINT

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code (F.A.C.).

BACKGROUND

On October 17, 2025, Mr. Justin Gage (Mr. Gage) filed Informal Complaint No. 1488062E, alleging that a PME-4 switchgear unit¹ administered by Duke Energy Florida, LLC (DEF) located near his house was out of compliance with the National Electrical Safety Code (NESC). In particular, Mr. Gage alleged that the PME-4 unit had missing or improper safety stickers, was improperly sealed at the base, and that the door of the unit was too close to nearby bushes to be fully opened.

Mr. Gage had previously been in contact with DEF regarding the PME-4. On September 4, 2025, Mr. Gage reported that a loud boom had come from the PME-4. A DEF technician arrived onsite and confirmed that Mr. Gage had power. At that time Mr. Gage raised his concerns with the PME-4 with the technician. The technician told Mr. Gage that his concerns would be investigated and put a safety sticker on the unit. A DEF investigation found that the

¹ A switchgear is composed of electrical disconnect switches, fuses, or circuit breakers used to control, protect, and isolate electrical equipment.

PME-4 was in compliance with the NESC and that Mr. Gage was not served by that PME-4 but by a nearby transformer. Mr. Gage then filed an informal complaint with the Commission under Rule 25-22.032, F.A.C.

While the informal complaint was being processed at the Commission, Mr. Gage also filed a complaint with the Occupational Safety and Health Administration (OSHA). OSHA reached out to DEF about the complaint and a DEF Supervisor and Safety Professional examined the PME-4 on November 25, 2025. They found no OSHA or NESC violations. On or about that date, the bushes that were near the PME-4 were removed. In early December OSHA informed Mr. Gage that his case was being closed because the bushes were removed.

On January 6, 2026, Commission engineering safety staff examined the PME-4 unit and found no violations of the NESC. Mr. Gage was unsatisfied and the matter was referred to the Commission's Process Review Team (PRT) for review. In March, Commission staff advised Mr. Gage that his informal complaint had been reviewed by the PRT, and it did not appear that DEF had violated any Commission statutes, rules, orders, or its tariff in its handling of the matter, and that the Commission did not have jurisdiction to award damages.

On March 27, 2026, Mr. Gage filed a formal complaint against DEF under Rule 25-22.036(3)(b), F.A.C., alleging the same material facts contained in his informal complaint. The formal complaint asserts that the PME-4 unit was out of compliance with the NESC from September 2025 to December 2025. Mr. Gage further alleges that DEF made false or misleading statements to the Commission regarding the PME-4's compliance, and that Commission staff failed to properly review his informal complaint.

On April 3, 2026, DEF filed a Motion to Dismiss the Complaint. DEF asserts that the complaint does not comply with Rule 25-22.036, F.A.C., because the complaint fails to contain competent substantial evidence that any action taken by DEF constitutes a violation of any applicable statute, rule, Commission order, or the company tariff. Further, DEF denies that it made any false statements to the Commission. On April 6, Mr. Gage filed a response, asserting that the complaint sets forth photographic evidence of NESC violations.²

This order addresses whether DEF's Motion to Dismiss the Complaint should be granted and the appropriate disposition of Mr. Gage's complaint against DEF. We have jurisdiction over this matter pursuant to Section 366.04., Florida Statutes (F.S.).

DECISION

I. DEF's Motion to Dismiss

To sustain a motion to dismiss, the moving party must show that, accepting all allegations as true, the petition fails to state a cause of action for which relief may be granted. *Varnes v. Dawkins*, 624 So. 2d 349, 350 (Fla. 1st DCA 1993). The moving party must specify the grounds

² Mr. Gage's OSHA complaint and the referenced photographs are attached to his formal complaint, Document No. 01812-2026, filed March 27, 2026, in Docket No. 20260045-EI.

for the motion to dismiss, and all material allegations must be construed against the moving party in determining if the petitioner has stated the necessary allegations. A determination of the petition's sufficiency is confined to the petition and the documents incorporated therein and the grounds asserted in the motion to dismiss. *Id.* All allegations in the petition must be viewed as true and in the light most favorable to the petitioner in order to determine whether there is a cause of action upon which relief may be granted. *Id.*

Rule 25-22.036., F.A.C., prescribes the elements that must be contained in a formal complaint:

1. The rule, order, or statute that has been violated;
2. The actions that constitute the violation;
3. The name and address of the person against whom the complaint is lodged; and
4. The specific relief requested, including any penalty sought.

Mr. Gage's formal complaint states that DEF violated three Rules: Rule 25-6.0345, F.A.C., which adopts the 2023 NESC as the applicable safety standards for transmission and distribution facilities; Rule 25-6.039, F.A.C., which requires utilities to establish safe work practices; and Rule 25-6.0346, which requires utilities to submit quarterly reports certifying work order compliance with all applicable safety standards. To support these claims, Mr. Gage supplied photographs purporting to show the violations with explanatory text.

DEF's Motion to Dismiss states that the complaint "fails to provide competent or substantial evidence" that any of DEF's actions violate any rule. DEF states that it has repeatedly inspected the PME-4 and have found no NESC violations. DEF further states that it has never made false or misleading statements to the Commission regarding the inspections of the PME-4. Mr. Gage's response to DEF's Motion to Dismiss reiterates the claims made in the formal complaint about the physical condition of the PME-4.

We have previously held pro se litigants such as Mr. Gage to a relaxed pleading standard, in order to prevent delay and promote resolution of litigants' claims. We find the petition states a cause of action related to the safety compliance of DEF facilities, which is under our jurisdiction as provided under Section 366.04(6), F.S. We find that the factual allegations contained in Mr. Gage's complaint are sufficiently clear to show which of DEF's actions Mr. Gage believes violated our rules. The complaint and accompanying photographs show how Mr. Gage believes the PME-4 was out of compliance with the NESC. Mr. Gage alleges insufficient clearance for the PME-4's door and improper safety labelling.

We find that these allegations relate to DEF's compliance with our safety standards and that the facts and documentation in the docket sufficiently state a cause of action for us to make a determination on the formal complaint. Therefore, we deny DEF's Motion to Dismiss. Instead, we will make a decision on the substance of Mr. Gage's complaint, as discussed in the next section of this order.

II. The Disposition of Mr. Gage's Complaint

Based on the information provided, it does not appear that DEF violated a statute, rule, order, or applicable provision of DEF's Commission-approved tariff. Section 25-6.0345, F.A.C., states that "[t]he safety standards prescribed by the 2023 National Electrical Safety Code (NESC) C2-2023, are adopted and incorporated by reference into this rule as the applicable safety standards for transmission and distribution facilities subject to the Commission's jurisdiction." The other potential rule violations, including DEF's alleged false statements to the Commission, depend on finding that DEF violated the NESC.

The PME-4 unit was inspected at least three times. First, on September 4, 2025, a DEF technician responded to Mr. Gage's report of a loud boom coming from the unit, and Mr. Gage raised his concerns with the DEF technician. At that time, the technician examined the unit, logged Mr. Gage's complaints, and placed a new safety sticker on the unit.³ DEF's investigation at that time found no NESC violations; in particular, it found that the unit was properly sealed and that the unit could be safely accessed. Second, on November 25, 2025, a DEF Supervisor and Safety Professional inspected the PME-4 and found no NESC or OSHA violations. At that time DEF put new safety stickers on the unit and notified the HOA that the bushes near the unit were being removed "to satisfy Mr. Gage's complaint." Third, on January 6, 2026, Commission staff inspected the unit and found that it was in good condition and well maintained. Commission staff found no NESC violations.

We find that DEF did not violate the NESC. Multiple inspections by DEF technicians and Commission staff failed to find any violations of the NESC. In his complaint, Mr. Gage fails to identify which provisions of the NESC he believes were violated. DEF put new safety stickers on the unit and removed the nearby bushes to satisfy Mr. Gage; we find these actions appear to resolve Mr. Gage's concerns with the PME-4, as the formal complaint acknowledges the unit was brought into compliance in December. OSHA did not conclude that DEF violated the NESC, merely closing its case after the conditions Mr. Gage complained about were removed. Mr. Gage also alleges that Commission staff improperly investigated his complaint. Mr. Gage does not explain how Commission staff improperly reviewed his complaint or how Commission staff improperly used its discretion. We find that DEF did not violate a statute, rule, order, or applicable provision of DEF's Commission-approved tariff in the condition or maintenance of the PME-4 unit; therefore, the petitioner's complaint shall be denied.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Duke Energy Florida, LLC's Motion to Dismiss is hereby denied. It is further

ORDERED that Mr. Gage's formal complaint is denied. It is further

³ NESC Rule 381G requires that a prominent and appropriate safety sign should be visible when the first door or barrier is opened or removed. National Electrical Safety Code, IEEE Std C2-2023 (New York: IEEE, 2023), Rule 381G.

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 24th day of July, 2026.



ADAM TEITZMAN
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

JSC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 14, 2026.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.